

October 21, 2015 PAYSON CITY COUNCIL MEETING MINUTES

ATTENDANCE: Mayor Moore; Council members Larry Skinner, Mike Hardy, Jolynn Ford, Kim Hancock and Scott Phillips; City Manager Dave Tuckett; Finance Director Sara Hubbs; City Attorney Mark Sorenson

Meeting began at 6:00 pm.

PRAYER & PLEDGE OF ALLEGIANCE: Prayer offered by Richard Steele; Pledge of Allegiance led by Councilmember Phillips.

CONSENT AGENDA: Approval of October 7, 2015 Payson City Council Meeting Minutes.

MOTION by Councilmember Hardy to approve the Consent Agenda. Motion seconded by Councilmember Skinner. Motion Carried.

PUBLIC FORUM: Public Forum opened at 6:02 p.m.

Mr. Alan Wilson stated he wanted to thank the city council and the mayor and all the other people in the city who make Payson a better place. He talked about his family holding a golf tournament the morning of Labor Day. He stated that they teed off early in the morning to make sure they didn't hold anybody up and could make it back to the Onion Day Celebration. He stated that as he tried to schedule a tee time, Mr. Zobell asked how would he be able to explain to the city council the reasoning behind selling 9 holes at \$21 when he could have sold 18 holes for \$42. Mr. Wilson stated because of Mr. Zobell's, decision his family was not able to hold their annual golf tournament, which resulted in many family members not coming to the celebration, staying at the Comfort Inn.

Public Forum closed at 6:06 p.m.

STAFF REPORTS:

HUMAN RESOURCES – Dora Edvalson presented the following employees with their service awards:

Cheryl Hobbs – Cheryl began her career with Payson City as a volunteer in the ESL program in 1990. In that capacity she assisted many Payson residents in improving their educational and job opportunities. Cheryl accepted a part-time position as Utility service clerk soon after, and in September of 1995 accepted a full-time position as secretary of the Planning and Zoning Department for Payson City. Cheryl served faithfully in the Community Development arena until May 2003 when she transferred to the Utility Department as the full-time Utility Billing Clerk. In August of 2014 Cheryl was appointed to the position of City Treasurer/Utility Billing Manager. Her new position is critical to the welfare of Payson City and her duties are complex and varied, requiring accuracy and efficiency. Cheryl does an outstanding job at performing in this arena.

Cheryl has four children, and resides in Payson. Cheryl is kind and compassionate with her co-workers and is always ready to lend a hand. The Mayor and Council commend Cheryl and thank her and her family for her dedication to the residents of Payson.

Jesse Bennett –Jesse began with Payson City as a temporary/seasonal worker in July 2004. He became a full time Parks Maintenance worker in June 2005, where he has been a dedicated worker until 2009 when he transferred to the Culinary Water department as a Culinary Water Maintenance Operator. As part of the public works force, Jesse has been a valuable asset in construction and maintenance of the city infrastructure. Jesse recently accepted a position on the City Employee Health and Wellness Program Committee. He is dedicated to health and wellness in his own life, and his goal is to motivate his co-workers to do the same.

He and his wife Tashina and their little daughter currently reside in Payson. The Mayor and council commend and thank Jesse and his family for his service to the residents of Payson.

Phil Christensen– Phil recently left Payson to accept the Animal Control Officer position in Salem. We wish him well in his new job, and thank him for 10 years of service to the residents of Payson.

Mimi Sandoval –Mimi began her police service with Payson City as a reserve officer in September 2003. She was hired to the full-time police force in September of 2005. Mimi has fulfilled her duties and responsibilities as a police officer with honor. She is an exemplary member of our Police Force and has received numerous awards for her role in public safety. She is currently working in the Detective Department, in one of the most difficult assignments in police work, sex crimes. She does excellent work in intervention and prevention of this crime.

Mimi and her daughter, Karmen, reside in Santaquin. The Mayor and Council commend and thank Mimi for her service to our community.

POLICE – Chief Bishop mentioned there were about 500 calls, 78 arrests, 136 offenses, 80 citations, 1 dui, 10 traffic accidents, and 135 traffic stops. He stated there have been 20 auto burglaries of which 16 have been solved and 3 residential burglaries which all have been solved.

Councilmember Skinner asked if the vehicle robberies were in one spot of town. Chief Bishop stated they were all over the city and 99% of the burglaries were due to the car being unlocked. Chief Bishop mentioned that the same group stole a gun in the Salem area, but they were found in Millard County in a stolen vehicle. Councilmember Hardy asked if it was gang related and Chief Bishop stated it was not.

CITY MANAGER – Mr. Tuckett stated the UDOT Environmental Impact Study Group wants to come and present to the Council on November 18th, but would like to do a work session at 5:00. Councilmember Hancock stated that the meeting is very important to attend because it is an eye opener. He stated that early voting is taking place from 1:00-5:00 here at the City Center October 20th – 30th.

CITY PLANNER - Jill Spencer stated there was a meeting for the South Utah County Active Transportation Plan tomorrow night and would like the residents to know about it so they can attend. She stated there will be an open house at the park next to Costco in Spanish Fork.

PUBLIC WORKS - Director Travis Jockumsen stated 780 West was paved and they ended up doing a change order on 9th South because the asphalt was in such bad shape. He stated 730 West will not be

paved because there is not enough budget this year. He stated the well house is out to bid at the golf course and hopefully will be built this winter. He stated UDOT has approved a light at 1400 South on SR 198, but probably won't take effect until July when the funding is available. He stated he received a letter today from some residents at 150 North and 200 West. He noted he and Mr. Tuckett went out there today to check it out and the asphalt is completely deteriorated and they will need to budget for that repair in future..

Mayor Moore asked if the funds from 780 W could be used for it. Mr. Jockumsen stated that there is not any budget left from 780 West. Councilmember Phillips asked if they could do a temporary fix. Mr. Jockumsen stated he would look into it.

He stated that they found out that the Forest Service is increasing the fees on the lakes and waterlines that are on their property from \$81/year to about \$7280/year. He said Forest Service reported this is coming directly from Washington. Mayor Moore asked if Payson could talk to the federal representatives. Councilmember Skinner asked if there is a protest period. City Manager Tuckett stated that once the Forest Service gives the notice there is an option to appeal. Mr. Tuckett noted that the Forest Service said Payson was not assessed properly, so that is why it was only being charged \$81/year. Mr. Jockumsen stated that the fee assessed is based on an appraisal. Mayor Moore stated that he would talk with the federal representatives if Mr. Jockumsen could send him all the information.

RECREATION – Recreation Director Karl Teemant stated that next week they are meeting with People Preserving Peteetneet to discuss Christmas lights. He stated the gymnastics team will attend their last competition of the year in December at South Jordan City. He stated they are signing up for volleyball and wrestling in the next couple weeks.

COUNCIL REPORTS:

Councilmember Hardy stated the Chamber is doing the Great Pumpkin Hunt and invited the public to attend.

Councilmember Ford noted there is a scout in the area that is going to be the youngest Eagle Scout. She stated that there will be a ribbon cutting at 6:30 of a huge gateway that he built at Payson High School.

Councilmember Phillips asked Mr. Jockumsen to tell Brent Arns thanks for working on fixing the roads.

SCOUT ATTENDANCE CERTIFICATES – Councilmember Hardy presented attendance certificates to the following scouts in attendance: Jose Torres, Leo Castro, Axel Salmeron, Daniel Sandoval, Ignacio Moyano, John Wayne, and Josh Raff

PUBLIC HEARING: PROPOSED AMENDMENTS TO TITLE 19, ZONING ORDINANCE AND TITLE 20, SUBDIVISION ORDINANCE

MOTION by Councilmember Hancock to open the public hearing to receive public input regarding proposed amendments to Title 19, Zoning Ordinance and Title 20, Subdivision Ordinance. Motion seconded by Councilmember Hardy. Motion carries.

City Planner Spencer stated although the public hearing notice included proposed amendments to Title 19, Zoning Ordinance and Title 20, Subdivision Ordinance, staff is only proposing amendments to the Zoning Ordinance at this time.

City Planner Spencer stated the parcels in the Payson Business Park were included in an Economic Development Area(EDA) and Payson City received tax increment for nearly twenty-five (25) years to refund the bond payments for the completed improvements (i.e. land acquisition, utilities, roadway) within the Park boundaries. The EDA has expired and Payson City is no longer receiving tax credits for development in the Park; therefore, the Master Declaration of Covenants, Conditions, Restrictions, and Development Standards for the Payson Business Park could be withdrawn if deemed appropriate by the City Council. Following a review of this document, staff would suggest that many of the land use and design standards in the document are still relevant and should remain intact for future development within the Park. Rather than amend the Master Declaration, staff is proposing to create a new zoning district (BPD, Business Park Development Zone) for the parcels in the Payson Business Park. Although the public hearing notice included proposed amendments to Title 19, Zoning Ordinance and Title 20, Subdivision Ordinance, staff is only proposing amendments to the Zoning Ordinance at this time. However, if ordinance amendments have been overlooked, they may be considered during the public hearing.

She stated the priority for her is to simplify the approval process while still maintaining “business park” atmosphere (i.e. design, landscaping, storage areas).

She stated the Planning Commission wanted some of the following language changed:

- the purpose and zone characteristics remove emphasis on research and development process needed to be modified to allow other uses and
- modify limitations on the release of various pollutions
- encourage (or require) drought tolerant vegetation.

James Ewell asked what the restrictions are on expanded land uses. Planner Spencer stated they were technology based like call centers. She stated when it came to the typical uses it was very limited, and they wanted to add Distribution, Fabrication, and Manufacturing. She stated the Economic Development Committee is trying to get a business into the business park, so they needed it expanded, so it could locate there. She stated this ordinance may need to be changed in the future, but they feel this is a good start. She stated she has received positive feedback from business owners

MOTION by Councilmember Hardy to close public hearing. Motion seconded by Councilmember Skinner. Motion Carried.

Councilmember Hancock stated that on expressly prohibited uses, he felt the third item was slightly unclear. He noted the first two items are a specific use, but the third item “products made from” is not a specific use. He stated he thought it would be better to say “manufacture of products made from raw materials” .

Councilmember Ford stated that in the past she and other councilmembers had met with Rocky Mountain ATV and they had asked the City Council to relax the design requirements. Planner Spencer stated that staff did incorporate some of those changes. She stated it was quite regulatory, but as they met with business owners they wanted the requirements relaxed a little bit. She stated in the past, the requirement was to have the building built from masonry materials, but it was amended to say that if the building was over 100,000 square feet it could use other material. She stated the requirements only apply to 40% of the façade of the building.

MOTION by Councilmember Hardy to approve amendments to Title 19, Business Park and Development Zone as presented by staff with changes to the 3rd item and the xeriscaping is encouraged but not required. Motion seconded by Councilmember Hancock. Motion Carried. All present voting aye.

PUBLIC HEARING: REQUEST FOR APPROVAL OF AN ACCESSORY LIVING UNIT IN THE R-1-9, RESIDENTIAL ZONE

MOTION by Councilmember Hancock to open the public hearing to receive public input regarding approval of an accessory living unit in the R-1-9 residential zone. Motion seconded by Councilmember Hardy. Motion carries.

City Planner Jill Spencer The applicant, Brandon Rindlisbacher is requesting approval for use of the RMO-A, Accessory Living Unit Overlay Zone to allow an accessory living unit in the dwelling being constructed at 665 West 1100 South in the R-1-9, Residential Zone. The parcel (Utah County Parcel #34-059-0015) was recently purchased by Brandon and Shalee Rindlisbacher and a building permit has been issued for the construction of a single family dwelling on the site. As explained in the written explanation prepared by the applicant and attached to this report, the applicant is prepared to complete the necessary improvements (i.e. exterior entrance, fire separation, separate water heaters and HVAC systems) to accommodate a separate dwelling unit in the basement of the structure if the request is approved.

In order to obtain approval of the RMO-A, Accessory Living Unit Overlay Zone, the applicant must receive recommendation from the Planning Commission and approval by the City Council. Both the Planning Commission and City Council are required to hold a public hearing and consider public input prior to reaching a recommendation or decision, respectively. The Planning Commission considered the request on September 23, 2015 and forwarded a recommendation of approval to the City Council. The findings of the motion are included in the recommendation portion of this staff report. The public hearing has been properly noticed and courtesy notices have been mailed to the appropriate property owners.

Analysis

The RMO-A, Accessory Living Unit Overlay Zone regulations were introduced and adopted by the City Council on May 16, 2012 in accordance with Section 19.2.8 of Title 19, Zoning Ordinance. The relatively new ordinance provides a process to accommodate an accessory living unit in an existing single family dwelling, if deemed appropriate by the City Council. Moreover, the ordinance provides a procedure for owners of unauthorized accessory units to correct potential zoning violations. With the new provisions in effect, the applicant is requesting approval for use of the RMO-A Overlay Zone to accommodate an

accessory living unit in a single family dwelling. It should be noted that the ordinance was created to provide a tool to correct potential zoning violations, not to increase the number of basement apartments throughout the community. To date, all requests for use of the RMO-A Overlay Zone have been processed to correct zoning violations. The City Council will need to determine if the overlay zone should be used for new construction projects.

In accordance with Section 19.6.11.1 of the Payson City Zoning Ordinance, the RMO-A Overlay Zone is established to conserve and protect the residential atmosphere and character of established neighborhoods and to maintain desirable, attractive, and safe places to live throughout the community. Approval of an overlay zone is similar to a zone change request and the City Council is under no obligation to approve the use of the overlay zone. The applicant must demonstrate the proposed use (accessory living unit) is appropriate in a particular neighborhood and will further the land use goals established by the City Council. By definition, an accessory living unit is "...a second living unit within a single family dwelling which is accessory to the single family and is an architectural and integral part of the single family dwelling." Approval of an accessory living unit does not change the single family classification of the structure. Rather, the unit is an extension of the single family home and must remain a function of the single family dwelling. To that end, the connection between the main level of the structure and the basement cannot be blocked off and separate utilities to the accessory living unit are not allowed.

The application was reviewed for compliance with Title 19, Zoning Ordinance (November 5, 2014) and other applicable requirements of the Payson Municipal Code. Staff would suggest the City Council consider the following requirements as conditions of approval of the application.

1. Accessory living units are intended to provide an ancillary living quarter without full services such as cooking and laundry facilities. In this instance, the applicant is proposing a second kitchen area and separate laundry facilities so it needs to be clearly reiterated, and understood by the applicant, that any approval for an accessory living unit is not authorization for use of the structure as a duplex. The connection between the main portion of the structure and the addition must remain open and no separate utilities are allowed.
2. Adequate off-street parking will need to be provided on the project site. City ordinance requires two (2) offstreet parking spaces for each unit. The off-street parking for the main level will be accommodated in the two (2) car garage and the applicant is proposing a hard surfaced driveway that will accommodate two (2) uncovered tandem parking spaces west of the structure for the accessory living unit. The on-site parking must be consistent with the applicable requirements of Section 19.6.11 and Chapter 19.4 of the Zoning Ordinance.
3. A building permit must be obtained for any building alterations associated with the accessory living unit. Any alterations and improvements must be consistent with the regulations of the adopted building and fire codes.
4. If the overlay zone is approved, a notice that outlines any special conditions of approval to guarantee compliance with the approval will be filed in the office of the Utah County Recorder. Conversely, if the

request is denied, a Certificate of Present Condition will be recorded to reiterate the classification of the structure as a single family dwelling. The City Council may require additional information in order to make a well-informed decision or impose additional conditions to ensure the project is consistent with the land use ordinances and the development goals of the City.

Recommendation

On September 23, 2015, the Planning Commission, following a public hearing, recommended approval of the request contingent upon the satisfaction of staff conditions and with an additional condition that the structure (one unit) must be occupied by the owner of the property. The City Council will need to review the RMO-A Overlay Zone request for consistency with the requirements of the land use ordinances of the City. Following a public hearing, the City Council may:

1. Remand the request of the applicant back to staff or the Planning Commission for further review. The City Council should select this option if it is determined that the applicant has not provided enough information to formulate a well-informed decision.
2. Approve the request for use of the overlay zone as proposed. Staff would suggest that if the City Council approves the use of the overlay zone as proposed, an opportunity to require the applicant to satisfy the regulations of the Payson City development ordinances will be missed.
3. Approve the request for use of the overlay zone contingent upon the satisfaction of conditions. Staff would suggest that if the City Council recommends approval of the use of the overlay zone contingent upon the satisfaction of appropriate conditions, the applicant will be required to use the property consistent with the regulations of the development ordinances of Payson City and in a manner that will benefit the community.
4. Deny the use of the overlay zone. The City Council should select this option if it is determined the proposed accessory living unit is not appropriate in this location or the applicant is unwilling or unable to satisfy the regulations of the Payson City development ordinances and the land use goals of the City Council. Denial for the use of the overlay zone shall not constitute a takings claim because the applicant will not be denied the ability to use the property in accordance with the underlying zone.

The decision of the City Council, whether in favor of the request or in opposition of the request, should include findings that indicate reasonable conclusions for the decision.

Councilmember Skinner asked if the zoning would be enforced if it was sold. Planner Spencer stated staff has been doing research in other communities to see what they do for the owner-occupied accessory unit. She stated other communities have a permit that has to be approved every two years and it would help to enforce it.

Brandon Rindlisbacher stated that he is applying for the accessory living unit is mainly for family, but he would also like to be able to rent if he doesn't have family to rent it to recoup some of his costs. He stated it is planned to have the appropriate fire protection and the required parking. He stated he is

trying to comply with the neighborhood requirements and make sure the house fits in the neighborhood.

MOTION by Councilmember Hancock to close public hearing. Motion seconded by Councilmember Phillips. Motion Carried.

Councilmember Phillips asked if any of the neighbors had any concern. Planner Spencer stated the neighbors attended the Planning Commission Meeting and were actually supportive and noted there was not any here tonight.

Councilmember Hancock stated he like the idea of a two-year permit and asked if it could be included in the motion. Attorney Mark Sorenson stated that it could be included as a subject to condition. Councilmember Hancock stated that he has struggled with this decision during the planning commission and trying to distinguish between whether this is a duplex or not. He stated that the only answer the Planning Commission gave was because it didn't look like a duplex and he didn't feel that was a good enough reason to distinguish the two.

Councilmember Skinner stated that this approval may cause other neighbors in the neighborhood to want to do the same thing and have an auxiliary living space in the house. Councilmember Phillips stated as long as there is a way to enforce the owner occupancy requirement it should work. Planner Spencer stated the ordinance needs to be updated to address this issue and will reach out to other communities to refine the ordinance.

Councilmember Phillips stated that the home could be converted back into a single family home if needed in the future.

James Ewell suggested that the time frame need to be extended to three to five years because underwriters like to see a period of at least three to five years and the value of the house will increase as well.

MOTION by Councilmember Hancock to approve accessory living unit in the R-1-9 Residential Zone based on approval with conditions from Planning and Zoning, and with condition that it runs with the land and that a confirmation of ownership be required once every 3-years or upon sale. Motion seconded by Councilmember Hardy. Motion Carried. All present voting aye.

MOTION by Councilmember Hardy to adjourn.

Meeting adjourned at 7:05 p.m.